

UNITED STATES DISTRICT COURT  
IN THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

NC-WC LP  
PLAINTIFF

VS.

Civil Case No. 3:06-cv-WKW-SRW

DAVID STIVARIUS *et al.*  
DEFENDANT(S)

APPLICATION TO COURT FOR ENTRY OF DEFAULT AND DEFAULT JUDGMENT  
AND SUPPORTING AFFIDAVIT AGAINST DEFENDANTS  
DAVID STIVARIUS AND MELISSA LEE

STATE OF ALABAMA  
COUNTY OF JEFFERSON

Gary S. Olshan, being duly sworn, deposes and says as follows:

1. That he is the attorney of record for the plaintiff and has personal knowledge of the facts set forth in this affidavit.
  2. That defendant David Stivarius was/were served a copy of the summons On Oct. 13, 2006 and defendant Melissa Lee's acceptance of service of the summons and complaint was filed of record on August 23, 2006.
  3. These defendant(s) has/have failed to plead, answer or otherwise defend as Plaintiff's complaint or serve a copy of any answer or other defense which she/he/they may have upon the undersigned attorney of record for the Plaintiff.
  4. That more than thirty (30) days have passed since date of service.
  5. That this affidavit is executed in accordance with Rule 55(a) of the Federal Rules of Civil Procedure for the purpose of enabling the Plaintiff to obtain an entry of default against the named defendant(s) for her/his/their failure to answer or otherwise defend as to Plaintiff's complaint.
  6. That the named individual defendant(s) is/are over the age of nineteen (19) years and is/are of sound mind and are not members of the United States armed services.
  7. Plaintiff requests that a judgment allowing for judicial foreclosure by Plaintiff of the subject mortgage, the relief sought, be entered against the named defendant(s), David Stivarius and Melissa Lee.

---

Affiant – Gary S. Olshan  
Attorney for the Plaintiff

Sworn to and subscribed before me this date: Nov. 17 2006

Notary Public  
My commission expires: Jan 4, 2008

